

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

SANJAY LAKHANI,

Plaintiff/Counterdefendant-  
Appellant,

v

SHEFALI SHAH,

Defendant/Counterplaintiff-  
Appellee.

UNPUBLISHED  
February 11, 2003

No. 234374  
Wayne Circuit Court  
LC No. 98-815296-DO

---

Before: Murphy, P.J., and Cavanagh and Neff, JJ.

PER CURIAM.

The parties to this case were married for about three months; the litigation to dissolve their union and resolve their property dispute has now lasted for almost five years. Plaintiff appeals as of right an amended judgment of annulment. We affirm.

Plaintiff originally filed for divorce and defendant counterclaimed for annulment. On the day set for trial on defendant's counterclaim, plaintiff failed to appear and defendant moved for entry of default. Proofs were taken from defendant concerning certain expenses incurred by defendant as a result of the marriage.<sup>1</sup> The trial court granted an annulment and, accepting defendant's un rebutted testimony about the amount of marital expenses, granted defendant half of the amount claimed.

Further legal maneuvering by plaintiff ultimately resulted in a remand by this Court to the trial court. At the hearing on remand, the trial court upheld the annulment, but set aside the property judgment. A hearing on the property dispute was later held and both parties had the opportunity to present proofs concerning marital expenses. As a result, the trial court reduced by about half the amount plaintiff was deemed to owe defendant for marital expenses incurred.

---

<sup>1</sup> These expenses were incurred as a result of the parties' engagement and marriage ceremonies in India.

On appeal, plaintiff argues the trial court abused its discretion in refusing to set aside the judgment of annulment. We disagree. Whether a default or a default judgment should be set aside is within the sound discretion of the trial court and will not be reversed on appeal absent a clear abuse of that discretion. *Alken-Ziegler, Inc v Waterbury Headers Corp*, 461 Mich 219, 227; 600 NW2d 638 (1999). Where there has been a valid exercise of discretion, appellate review is sharply limited. *Id.*

MCR 2.603(D)(1) provides, in part:

A motion to set aside a default or a default judgment, except when grounded on lack of jurisdiction over the defendant, shall be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed.

Good cause is established by (1) a procedural irregularity or defect, or (2) reasonable excuse for not complying with the requirements that created the default. *Barclay v Crown Bldg and Dev, Inc*, 241 Mich App 639, 653; 617 NW2d 373 (2000). Manifest injustice is not a third form of good cause that excuses failure to comply with the court rules where there is a meritorious defense. *Id.* Rather, it is the result that would occur if a default were not set aside where a party has satisfied the good cause and meritorious defense requirements. *Id.*

The trial court denied plaintiff's motion to set aside the annulment because plaintiff's prior counsel agreed to the annulment. We find the trial court did not abuse its discretion in refusing to set aside the annulment. In his trial brief, plaintiff requested that an annulment be entered, and plaintiff's counsel said that if plaintiff's prior attorney agreed to an annulment, then he would accept that. Additionally, plaintiff does not have good cause or a meritorious defense to set aside the annulment because plaintiff relied on the annulment when he married his current wife and had a child. Therefore, the trial court did not abuse its discretion in refusing to set aside the default judgment of annulment.

Plaintiff also argues there was an inequitable and unjust division of assets and debts between the parties. Again, we disagree. On appeal, this Court must first review the trial court's findings of fact under the clearly erroneous standard. *Sparks v Sparks*, 440 Mich 141, 151; 485 NW2d 893 (1992). A finding is clearly erroneous if, after a review of the entire record, the reviewing court is left with the definite and firm conviction that a mistake has been made. *McNamara v Horner*, 249 Mich App 177, 182-183; 642 NW2d 385 (2002). If the trial court's findings of facts are upheld, this Court must decide whether the dispositive ruling was fair and equitable in light of those facts. *Id.* The dispositional ruling is discretionary and should be affirmed unless this Court is left with the firm conviction that the division was inequitable. *Sand v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993).

The trial court found that the cost of the wedding is a debt of the marriage, and both parties must share in the cost. The court went on to make specific findings about the individual items of expense, and determined that plaintiff owes defendant a total of \$12,585.15, together with statutory interest. The trial court's findings are not clearly erroneous. Defendant testified that about eight hundred people attended the wedding, and about the specific expenses incurred. The total cost of the wedding that defendant is responsible for is \$37,803.

Defendant told plaintiff that she would only go to India if he was ready to commit to marriage, and knowing that, he asked her to come to India. Plaintiff wanted defendant to come to India to get his mother's blessing. Defendant went to India with an understanding that there would be a marriage taking place.

In light of all the circumstances, it was fair and equitable that plaintiff share in the cost of the wedding. The evidence supports the finding that defendant incurred considerable expense. The evidence also indicates that an understanding existed between plaintiff and defendant that they would marry if defendant went to India and plaintiff's mother approved. Therefore, we conclude that the trial court's finding that plaintiff share in the cost of the wedding is supported by the record, and the court's ruling is just and equitable.

Defendant argues that this Court should grant her costs and attorneys fees pursuant to MCR 7.216(C) due to plaintiff's alleged vexatious appeal. We disagree. The court rule permits this Court to assess damages to a party: (1) if the appeal was pursued to hinder the opposing party; (2) if it was pursued to delay the situation affected by the appeal; or (3) if it was filed without a reasonable belief that it had merit or if a pleading, motion, argument, brief, document, or record filed in the case: (1) was grossly lacking in the requirements of propriety, (2) violated court rules, or (3) grossly disregarded the requirements of a fair presentation of the issues to the court.

We decline to impose sanctions on plaintiff pursuant to MCR 7.216(C). Defendant has not demonstrated that plaintiff's appeal was pursued to hinder defendant, that it was pursued to delay, or that plaintiff lacked a reasonable belief that a meritorious issue existed. Additionally, plaintiff's brief was not grossly lacking in the requirements of propriety, did not violate court rules, and did not grossly disregard the requirements of a fair presentation of the issues to the court. Plaintiff had a reasonable basis for belief that there was a meritorious issue to be determined on appeal. Therefore, we find that sanctions pursuant to MCR 7.216(C)(1)(a) are not warranted.

Affirmed.

/s/ William B. Murphy  
/s/ Mark J. Cavanagh  
/s/ Janet T. Neff